

LOCAL CRIMINAL RULES

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**LOCAL CRIMINAL RULES OF THE
UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS**

LCrR 1.1 Definitions.

Unless the context indicates a contrary intention, the following definitions apply in these rules:

- (a) **Court.** The word “court” means the district judges of the United States District Court for the Northern District of Texas, as a collective body.
- (b) **Presiding Judge.** The term “presiding judge” means the judge to whom a case is assigned. The word “judge” includes district judges and magistrate judges.
- (c) **Attorney.** The word “attorney” means either:
 - (1) a person licensed to practice law by the highest court of any state or the District of Columbia; or
 - (2) a party proceeding pro se in any criminal action.
- (d) **Clerk.** The word “clerk” means the clerk of this court.

LCrR 16.1 Exchanging Exhibits, Exhibit Lists, and Witness Lists.

- (a) **Exchanging Exhibits.** All exhibits, except those offered solely for impeachment, that a party intends to offer at trial, must be marked with gummed labels or tags that identify them by the exhibit number under which they will be offered at trial, and must be exchanged with opposing parties at least 3 days before the scheduled date for trial. When practicable, a copy of such exhibits must be furnished to the presiding judge.
- (b) **Exchanging Exhibit and Witness Lists.** At least 3 days before the scheduled date for trial, the parties must file with the clerk and deliver to opposing parties and the court reporter, separate lists of exhibits and witnesses, except those offered solely for impeachment.

LCrR 23.1 Proposed Findings in Nonjury Cases.

Unless otherwise directed by the presiding judge, at least 3 days before trial in all nonjury cases, parties must file with the clerk and serve on opposing parties proposed findings of fact and conclusions of law. The parties must submit such amendments to the proposed findings of fact and conclusions of law as the presiding judge directs.

LCrR 24.1 Contact with Jurors.

A party, attorney, or representative of a party or attorney, shall not, before or after trial, contact any juror, prospective juror, or the relatives, friends, or associates of a juror or prospective juror, unless explicitly permitted to do so by the presiding judge.

LCrR 30.1 Requested Jury Charge.

Unless otherwise directed by the presiding judge, at least 3 days before trial, each party must file with the clerk and serve on opposing parties the requested jury charge, including instructions. The requested instructions should cite the authorities relied on.

LCrR 32.1 Nondisclosure of Recommendation.

A probation officer shall not disclose any recommendation regarding the sentence.

LCrR 47.1 Motion Practice.

Unless otherwise directed by the presiding judge, motion practice is controlled by subsection (h) of this rule. In addition, the parties must comply with the following:

(a) **Conference.** Before filing a motion, an attorney for the moving party must confer with an attorney for each party affected by the requested relief to determine whether the motion is opposed. Conferences are not required for motions to dismiss the entire action or indictment, or when a conference is not possible.

(b) **Certificate of Conference.**

(1) Each motion for which a conference is required must include a certificate of conference indicating that the motion is unopposed or opposed.

- (2) If a motion is opposed, the certificate must state that a conference was held, indicate the date of conference and the identities of the attorneys conferring, and explain why agreement could not be reached.
- (3) If a conference was not held, the certificate must explain why it was not possible to confer, in which event the motion will be presumed to be opposed.

(c) **Proposed Order.** An unopposed motion must be accompanied by an agreed proposed order, signed by the attorneys or parties. An opposed motion must be accompanied by a proposed order, unless an order is not required by subsection (h) of this rule. A proposed order must be set forth on a separate document.

(d) **Brief.** An opposed motion must be accompanied by a brief that sets forth the moving party's contentions of fact and /or law, and argument and authorities, unless a brief is not required by subsection (h) of this rule. A response to an opposed motion must be accompanied by a brief that sets forth the responding party's contentions of fact and/or law, and argument and authorities. A responding party is not required to file a brief in opposition to a motion for which a brief is not required by subsection (h) of this rule.

(e) **Time for Response and Brief.** A response and brief to an opposed motion must be filed within 10 days from the date the motion is filed.

(f) **Reply Brief.** Reply briefs may not be filed unless the moving party requests, and the presiding judge grants, leave to do so. If leave is granted, the reply brief shall be filed no later than the deadline set by the presiding judge.

(g) **No Oral Argument.** Unless otherwise directed by the presiding judge, oral argument on a motion will not be held.

(h) Uniform Requirements on Motion Practice.

B - Brief required (not required with agreed motion)

C - Certificate of conference required

O - Order required

MOTION (to/for)	B	C	O
CHANGE OF VENUE	X	X	X
COMPEL	X	X	X
CONSOLIDATION	X	X	X
CONTINUANCE		X	X
DISMISS	X		
EXTEND TIME		X	X
JUDGMENT OF ACQUITTAL	X		X
LEAVE TO FILE	X	X	X
LIMINE	X	X	X
NEW TRIAL	X		
PRODUCE DOCUMENTS	X	X	X
PROTECTIVE ORDER	X	X	X
QUASH	X	X	X
SANCTIONS	X	X	X
SUBSTITUTE COUNSEL		X	X
WITHDRAW		X	X

NOTE: If a motion is not listed, a brief, certificate of conference, and an order are required.

LCrR 47.2 Briefs.

(a) General Form. A brief must be printed, typewritten, or presented in some other legible form.

(b) Amicus Briefs. An amicus brief may not be filed without leave of the presiding judge. The brief must specifically set forth the interest of the *amicus curiae* in the

outcome of the litigation.

(c) **Length.** A brief must not exceed 25 pages (excluding the table of contents and table of authorities). A reply brief must not exceed 10 pages. Permission to file a brief in excess of these page limitations will be granted by the presiding judge only for extraordinary and compelling reasons.

(d) **Tables of Contents and Authorities.** A brief in excess of 10 pages must contain:

- (1) a table of contents with page references; and
- (2) an alphabetically arranged table of cases, statutes, and other authorities cited, with page references to the location of all citations.

LCrR 47.3 Confirmation of Informal Leave of Court.

When a presiding judge informally grants leave, such as an extension of time to file a response, an attorney for the party to whom leave is granted must file a document confirming the leave and must serve the document on all other parties.

LCrR 49.1 Filing Criminal Cases.

When a criminal case is filed, the United States must also submit, for each defendant, an original and one copy of a completed criminal case cover sheet, in the approved form.

LCrR 49.2 Filing of Pleadings, Motions, or Other Papers.

(a) **Filing with the Clerk.** All pleadings, motions, or other papers that the Federal Rules of Criminal Procedure permit or require to be filed, except discovery materials, must be filed with the clerk's office for the appropriate division. Such pleadings, motions, or other papers must not be sent directly to the presiding judge.

(b) **Duplicates Required.** An original and one copy of each pleading, motion, or other paper must be filed with the clerk.

(c) **Document Containing More Than One Pleading, Motion, or Other Paper.** Except for a proposed order, a document may contain more than one pleading, motion, or other paper. Any such document must clearly identify in the title each included pleading, motion, or other paper.

(d) **Certificate of Service.** All pleadings, motions, notices, and similar papers that Fed. R. Crim. P.49 or a court order requires or permits be served must contain a certificate of service.

LCrR 49.3 Required Form.

In addition to the requirements of the Federal Rules of Criminal Procedure, each pleading, motion, or other paper must:

- (a) contain on its face a title clearly identifying each included pleading, motion, or other paper;
- (b) contain a signature block that sets forth the attorney's bar number for the jurisdiction in which the attorney is admitted to practice, and a facsimile number where information may be sent to the attorney;
- (c) be filed on paper measuring 8½ x 11 inches;
- (d) be typed, printed, or legibly handwritten on numbered pages; and
- (e) unless otherwise provided by the local criminal rules, be two-hole punched at the top and either stapled in the upper, left-hand corner or secured with a durable fastener at the top.

LCrR 49.4 Notice of Orders and Judgments.

(a) **Furnishing Copies of Orders and Judgments.** Unless the presiding judge otherwise directs, the clerk shall furnish a copy of each order and judgment to counsel of record by first class mail or, where the clerk has the capability to do so, by facsimile transmission. To receive orders and judgments by facsimile transmission, the attorney of record must sign an agreement form provided by the clerk, and must comply with the applicable procedures established by the clerk. Where a party is represented by more than one attorney of record, the attorney designated in accordance with LCrR 49.4 (b) or (c) shall receive copies of orders and judgments and distribute them to co-counsel for the same party.

(b) **Designation of Counsel to Receive Orders and Judgments.** The clerk shall designate an attorney to receive copies of orders and judgments, in the following manner:

- (1) the first attorney to sign an indictment; and
- (2) the attorney appointed or retained to represent a defendant, or, when a defendant is represented by more than one attorney, the attorney who appears to be acting as lead counsel.

- (c) **Change in Designation of Counsel.** If the attorney designated to receive orders and judgments desires that another attorney be substituted for this purpose, the attorney must request substitution in the manner prescribed by the clerk.

LCrR 53.1 Photographs, Broadcasting, Recording, and Television Forbidden.

No person may photograph, electronically record, televise, or broadcast a judicial proceeding. No person may possess, on any floor of a building on which is located a courtroom, jury assembly room, or any room in which a jury is being impaneled, any equipment or device capable of photographing, electronically recording, televising, or broadcasting a judicial proceeding. This rule shall not apply to ceremonial proceedings or electronic recordings by an official court reporter or other authorized court personnel.

LCrR 53.2 Dress and Conduct.

All persons present in a courtroom where a trial, hearing, or other proceeding is in progress must dress and conduct themselves in a manner demonstrating respect for the court. The presiding judge shall have the discretion to establish appropriate standards of dress and conduct.

LCrR 53.3 Weapons Forbidden.

Firearms and other weapons are prohibited in areas of buildings designated for court use. Such weapons may be carried by the United States Marshal, the marshal's deputies, courtroom security personnel, and other persons to whom a presiding judge has given approval.

LCrR 55.1 Case Files.

- (a) **Maintenance of Files.** The clerk shall maintain the case file and docket sheet.
- (b) **Inspection of Files.** The original file in each pending case shall be available for public inspection in the clerk's office in the division where the case is filed. The clerk shall not release a file from the clerk's custody without the permission of the presiding judge, or except as permitted by subsection (d) of this rule.
- (c) **Inspection of Closed Files.** The file in a closed case shall be available for public inspection in the clerk's office in the division where the case was filed, unless the file has been removed to the appropriate federal records center.

(d) **Copies of Files.** Upon request, the clerk shall provide copies of the contents of case files, including transcripts of oral depositions and court proceedings. The clerk shall charge the fee established by the court for this service. When large numbers of copies are requested, the clerk is authorized to release the file to a commercial copying service, and to direct that the fee charged be paid directly to the service.

LCrR 55.2 Disposition of Exhibits.

(a) **Release While Case Pending.** Without an order from the presiding judge, no exhibit in the custody of the court may be removed from the clerk's office while the case is pending.

(b) **Removal or Destruction After Final Disposition of Case.** All exhibits in the custody of the court must be removed from the clerk's office within 60 days after final disposition of a case. The attorney who introduced the exhibits shall be responsible for their removal. Any exhibit not removed within the 60-day period may be destroyed or otherwise disposed of by the clerk.

LCrR 55.3 Ex Parte and Sealed Documents.

(a) Unless exempted by subsection (b) of this rule—

- (1) An *ex parte* document, or a document that a party desires be filed under seal, shall not be filed by the clerk under seal absent an order of a judge of the court directing the clerk to file the document under seal. The term "document," as used in this rule, means any pleading, motion, other paper, or physical item that the Federal Rules of Criminal Procedure permit or require to be filed.
- (2) A party who desires to file a document under seal must at the time the document is presented to the clerk for filing either present a motion to file the document under seal or demonstrate that a judge has ordered that the document be filed under seal. If no judge has been assigned to a case in which a motion is filed, the clerk may direct the motion to the duty judge or to another judge of the court for consideration.
- (3) The clerk of court shall defer filing an *ex parte* document, or document that a party desires be filed under seal, until a judge of the court has ruled on the motion to file the document under seal.

(b) The clerk shall file under seal any document that a statute or rule requires or permits to be so filed.

LCrR 55.4 Disposition of Sealed Documents.

Unless an order of the court otherwise directs, all sealed documents will be deemed unsealed 60 days after final disposition of a case. A party who desires that such a document remain sealed must move for this relief before the expiration of the 60-day period. The clerk may store, transfer, or otherwise dispose of unsealed documents according to the procedure that governs publicly available court records.

LCrR 57.1 Application of Rules by a Presiding Judge.

Notwithstanding the local criminal rules, a presiding judge may direct the parties to proceed in any manner that the judge deems just and expeditious.

LCrR 57.2 Miscellaneous and Special Orders.

The clerk shall maintain in each division a copy of all miscellaneous and special orders adopted by the court, and shall make these orders available for inspection and copying.

LCrR 57.3 Assignment of Cases.

The district judges shall determine the method by which all cases are assigned to individual judges.

LCrR 57.4 Conduct of Attorneys at Trial or Hearing.

Unless the presiding judge otherwise directs, during a trial or hearing, attorneys must:

- (a) stand when making objections or otherwise addressing the presiding judge;
- (b) use the lectern while examining or cross-examining witnesses;
- (c) when examining a witness, refrain from making statements, comments, or remarks before or after asking a question;
- (d) limit to one attorney for each party the examination or cross-examination of a witness; and
- (e) in making an objection, state plainly and briefly the grounds for objecting and not offer argument unless requested by the presiding judge.

LCrR 57.5 Clerk's Fees.

Unless a judge has permitted a party to proceed without prepayment of fees, the clerk shall not render any service for which a fee is required unless the appropriate fee is paid.

LCrR 57.6 Court Reporter's Fees.

Unless a judge has permitted a party to proceed without prepayment of fees, a court reporter shall not perform any service for which a fee is required unless the appropriate fee, or security therefor in the amount determined by the court reporter, has been paid.

LCrR 57.7 Admission of Attorneys.

Attorneys must fulfill the following requirements to be admitted to practice in this court:

(a) **Eligibility for Admission.** Any attorney licensed to practice law by the Supreme Court of Texas, or by the highest court of any state or the District of Columbia, may be admitted to the bar of this court if the attorney is of good personal and professional character and is a member in good standing of the bar where the attorney is licensed.

(b) **Procedure for Admission.** Attorneys desiring admission to the bar of this court must complete an application for admission, to be approved by a district judge, and, except as provided in subsection (c) of this rule, be introduced by a member in good standing of the bar of this court, and take the required oath or affirmation before a judge of this court. After the oath or affirmation is administered, and the applicant has paid the appropriate fee, the clerk shall issue a certificate stating that the attorney is admitted to practice before this court.

(c) **Admission Before Judges of Other Districts.** Any nonresident attorney who has completed all requirements for admission to the bar of this court may, with the approval of a district judge of the division where the application is pending, have the oath of admission administered by a judge in another district. The nonresident attorney must file the oath with the clerk and pay the appropriate fee before the attorney's name will be added to the roll of attorneys for this district.

(d) **Admission is Discretionary.** All admissions to practice before this court shall be discretionary with the district judge reviewing the application for admission.

LCrR 57.8 Loss of Membership and Discipline of Attorneys.

(a) Loss of Membership. A member of the bar of this court is subject to suspension or disbarment by the court under the following circumstances:

- (1) if for any reason other than nonpayment of dues, failure to meet continuing legal education requirements, or voluntary resignation unrelated to a disciplinary proceeding or problem, an attorney loses, either temporarily or permanently, the right to practice law before:
 - (A) the courts of the State of Texas;
 - (B) the highest court of any other state or the District of Columbia; or
 - (C) any federal court; or
- (2) if an attorney fails to maintain the right to practice law before the highest court of at least one state or the District of Columbia, unless the member's failure to maintain such right results from nonpayment of dues or failure to meet continuing legal education requirements.

(b) Grounds for Disciplinary Action. A presiding judge, after giving opportunity to show cause to the contrary, may take any appropriate disciplinary action against a member of the bar for:

- (1) conduct unbecoming a member of the bar;
- (2) failure to comply with any rule or order of this court;
- (3) unethical behavior;
- (4) inability to conduct litigation properly;
- (5) conviction by any court of a felony or crime involving dishonesty or false statement; or
- (6) having been publicly or privately disciplined by any court, bar, court agency or committee.

(c) Appeal of Disciplinary Action. An attorney who is suspended or disbarred under LCrR 57.8(b) shall have the right to petition the chief judge of this court for relief. The petition must be filed within 10 days after the discipline is ordered. The chief judge shall have absolute discretion as to what, if any, further action will be taken in respect to the matter.

(d) Reporting by Members. Any member of the bar of this court who has:

- (1) lost or relinquished, temporarily or permanently, the right to practice in any court of record;
- (2) been disciplined, publicly or privately, by any court, bar, court agency, or committee; or
- (3) been convicted of a felony or crime involving dishonesty or false statement,

shall promptly report such fact in writing to the clerk, supplying full details and copies of all pertinent documents reflecting, or explaining, such action.

(e) Unethical Behavior. The term “unethical behavior,” as used in this rule, includes any conduct that violates any code, rule, or standard of professional conduct or responsibility governing the conduct of attorneys authorized to practice law in the State of Texas.

(f) Readmission. An attorney applying for readmission to the bar of this court must submit an application for readmission, together with the following materials:

- (1) a full disclosure concerning the attorney’s loss or relinquishment of membership in the bar of this court; and
- (2) all information required by subsection (d) of this rule concerning facts that occurred prior to the date of application for readmission.

(g) Appointment of Counsel. The judge reviewing an application for admission shall have the right to appoint any member of the court’s bar to assist in the handling of any proceeding contemplated by or resulting from this rule. An attorney appointed under this rule shall perform as requested unless relieved from doing so. An attorney desiring relief from appointment must move for such relief, which will be granted only upon a showing of good cause.

(h) Reciprocal Discipline.

- (1) A member of the bar who is subject to suspension or disbarment under LCrR 57.8(a) must be given written notice by the chief judge, or by a district judge designated by the chief judge, that the court intends to suspend or disbar the member. The notice must identify the ground for imposing reciprocal discipline and provide the member an opportunity to show cause, within the time prescribed by the notice, why the member should not be suspended or disbarred.

- (2) If the member does not respond to the notice, or responds but does not oppose reciprocal discipline, the chief judge or a designee district judge may enter an appropriate order after the prescribed time for a response expires or the response is received.
- (3) If the member responds and, in whole or in part, opposes reciprocal discipline, the chief judge, or a district judge designated by the chief judge, must designate three district judges to hear the matter. The decision of a majority of the three-judge panel concerning the appropriate discipline shall be the final ruling of this court.

LCrR 57.9 Attorneys Not Admitted to Practice Before this Court.

(a) **Eligibility to Appear.** An attorney who is licensed to practice law by the highest court of any state or the District of Columbia, but who is not admitted to practice before this court, may represent a party in proceedings in this court only by permission of the presiding judge.

(b) **Application to Appear.** Unless exempted by LCrR 57.11, an attorney who is not admitted to practice in this court, who desires to represent a party in a proceeding, and who is eligible pursuant to subsection (a) of this rule to appear, shall apply for admission *pro hac vice* on a court-approved form and pay the applicable fee to the clerk.

(c) **Regulation of Attorneys Admitted *Pro Hac Vice*.** By appearing in any case, an attorney becomes subject to the rules of this court.

LCrR 57.10 Requirement of Local Counsel.

(a) **Local Counsel Required.** Unless exempted by LCrR 57.11, local counsel is required in all cases where an attorney appearing in a case does not reside or maintain an office in this district. “Local counsel” means a member of the bar of this court who resides or maintains an office within 50 miles of the division in which the case is pending. Attorneys desiring to proceed without local counsel must obtain leave from the presiding judge. If the request for leave is denied, written designation of local counsel must be filed within 10 days of the denial.

(b) **Duties of Local Counsel.** Local counsel must be authorized to present and argue a party’s position at any hearing called by the presiding judge on short notice. Local counsel must also be able to perform, on behalf of the party represented, any other duty required by the presiding judge or the local criminal rules of this court.

LCrR 57.11 Exemption from Admission to Practice, and from Requirement of Local Counsel, for Attorneys Appearing on Behalf of the United States Justice Department or the Attorney General of the State of Texas.

Unless the presiding judge otherwise directs, an attorney appearing on behalf of the United States Justice Department or the Attorney General of the State of Texas, and who is eligible pursuant to LCrR 57.9(a) to appear in this court, shall be exempt from the requirements of LCrR 57.9(b) and 57.10, but shall otherwise be subject to all requirements applicable to attorneys who have been granted leave to appear *pro hac vice*.

LCrR 57.12 Withdrawal of Attorney.

An attorney desiring to withdraw in any case must file a motion to withdraw. This motion must, in addition to the matters required by LCrR 47.1, specify the reasons requiring withdrawal and provide the name and address of the succeeding attorney. If the succeeding attorney is not known, the motion must set forth the name, address, and telephone number of the client and bear the client's signature approving withdrawal or state specifically why, after due diligence, the attorney was unable to obtain the client's signature.

LCrR 57.13 Change of Address or Name.

When an attorney admitted to practice in this district changes the attorney's business address or name, the attorney shall, within 30 days, file notice of the change with the clerk, using the approved form. On the form, the attorney shall list the style and docket number of all cases that the attorney has pending before this court.

LCrR 57.14 Parties Proceeding Pro Se.

Any party proceeding on the party's own behalf is considered pro se. Pro se parties must read and follow the local criminal rules of this court and the Federal Rules of Criminal Procedure.

LCrR 57.15 Attorney as a Witness.

(a) **Acceptance of Employment.** An attorney must not accept employment in a contemplated or pending case if the attorney knows, or in the exercise of reasonable diligence should know, that the attorney or another attorney in the firm may be called as a witness on behalf of the client. The attorney may accept employment, and the attorney or another attorney in the firm may testify, if the testimony relates solely to:

- (1) an uncontested matter;

- (2) a matter of formality where there is no reason to believe that substantial evidence will be offered in opposition to the testimony; or
- (3) the nature and value of legal services rendered.

(b) Exception for Substantial Hardship. Notwithstanding the requirements of subsection (a), an attorney may accept employment if refusal would work a substantial hardship on the client because of the distinctive value of the attorney or the firm in the particular case.

(c) Withdrawal From Representation. If, after accepting employment in a case, an attorney learns, or in the exercise of reasonable diligence should know, that the attorney or another attorney in the firm may be called as a witness on behalf of the client, the attorney and the firm must withdraw from the case unless one of the exceptions listed in subsection (a) or (b) applies.

(d) Testimony Prejudicial to Client. If, after accepting employment in a case, an attorney learns, or in the exercise of reasonable diligence should know, that the attorney or another attorney in the firm may be called as a witness other than on behalf of the client, the attorney and firm may continue to represent the client unless it appears that the testimony will or may be prejudicial to the client.

LCrR 58.1 Procedure Governed by Miscellaneous Order.

The procedures for conducting proceedings involving minor criminal offenses, as defined by 18 U.S.C. § 3401, shall be governed by the current miscellaneous order establishing such procedures.